

**“Preserving Judicial Independence and the Rule of Law”**  
**Remarks by Justice Ketanji Brown Jackson**  
**First Circuit Judicial Conference, Rio Grande, Puerto Rico**  
**May 1, 2025 | 8:00 PM**

Good evening! Thank you for that generous introduction. I am delighted to be here with you all this evening—in warm and wonderful Puerto Rico. As Chief Judge Barron indicated, I have the honor of having been appointed as the Circuit Justice for the First Circuit, replacing my mentor, friend, and former boss, Justice Breyer. And I do realize that I have big shoes to fill. But actually I feel right at home in this position, given that I spent my formative years as a law clerk and a lawyer working in this circuit and have especially fond memories of the judges and the courts of this particular community. When my other mentor, Judge Patti Saris, and I sit down for the fireside chat portion of this presentation in a few minutes, we will cover some of those experiences, and I am looking forward to that. But, first, I thought it important to provide some prepared remarks about this especially challenging moment for all of us (as judges) and for the rule of law.

Before I turn to those remarks, though, I *do* want to acknowledge and thank Chief Judge Barron for inviting me to speak this evening. And I would also be completely remiss if I did not take a moment to acknowledge the recent passing of Judge Bruce Selya, for whom I had the honor of clerking. In my memoir, I describe Judge Selya as “a brilliant, meticulous, and scholarly practitioner of the law,” and I can also attest to the fact that he treated his law clerks like family. I have wonderful memories of clerking for him, which Judge Saris and I will hopefully touch upon when we sit down together. But while I have the podium right now, let me address what I think is the elephant in the room: which is the relentless attacks and disregard and disparagement that judges around the country, and perhaps many of you, are now facing on a daily basis.

It seems as though every time I read the news or turn on the television these days, I see the affronts, and I am also reminded of the vital work that judges do to protect our constitutional order. Unfortunately, that solemn duty seems both more urgent and more difficult with each passing day. Across the nation, judges are facing increased threats of not only physical violence but also professional retaliation, just for doing our jobs. And the attacks are not random; they seem designed to intimidate those of us who serve in this critical capacity. The attacks are also not isolated incidents; that is, they impact more than just the individual judges who are being targeted. Rather, the threats and the harassment are attacks on our democracy—on our system of government. And they ultimately risk undermining our Constitution and the rule of law.

Perhaps because today—May 1<sup>st</sup>—happens to be National Law Day, I am taking this point of personal privilege to reaffirm the significance of judicial independence and to denounce attacks on judges based on their rulings. A society in which judges are routinely made to fear for their own safety or their own livelihood due to their decisions is one that has substantially departed from the norms of behavior that govern in a democratic system. Attacks on judicial independence are how countries that are *not* free, *not* fair, and *not* rule-of-law-oriented operate. And, as you well know, having an independent judiciary—defined as judges who are “indifferen[t] to improper pressure” and “determin[ed] to decide each case according to the law”—is one of the key ingredients that makes our free, fair, and law-centered society work.<sup>1</sup>

In his seminal Remarks on Judicial Independence, Justice Breyer helpfully underscores this. The speech I am referring to is published in volume 95 of the Georgetown Law Journal, and I strongly commend it to all of you and to anyone who cares about this issue. Justice Breyer explains that (*and I’m quoting now*)

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<sup>1</sup> Stephen Breyer, *Judicial Independence: Remarks by Justice Breyer*, 95 Georgetown L.J. 903, 904 (2007).

Constitutional guarantees of tenure and compensation may well help secure judicial independence, but they can by no means assure it. Ultimately, independence is a matter of custom, habit, and institutional expectation. [And] [t]o build those customs, habits, and expectations requires time and support—not only from the bench and bar but from the community where judges serve.<sup>2</sup>

Then comes the kicker: “Unfortunately,” he says, “it may prove easier to dismantle that independence than to attain it.”<sup>3</sup> You might be interested to know that *that* concern—about the fragility of judicial independence in light of its significance to a free and democratic society—is truly evergreen. As Justice Breyer notes, no less an authority than Alexander Hamilton once commented that “the independence of the judges, once destroyed, the constitution is gone; it is a dead letter, it is a vapor which the breath of faction in a moment may dissipate.”<sup>4</sup>

So what can we judges do, in this moment, to ensure that judicial independence is preserved for the protection of our Constitution and the People of the United States? I offer two ideas, for now—and I hope that this can be the start of many such conversations in the months to come.

First, judges can work to educate our fellow citizens about what we do and about the importance of our particular role in defending the Constitution and the rule of law. Justice Breyer focuses on civic education quite a bit in the remarks I mentioned; he even gives specifics about the kinds of things judges might say to lay people to help them understand the connection between judicial independence and their own wellbeing. I am also happy to report that judges throughout the First Circuit are doing yeoman’s work when it comes to community outreach and education. I highlighted the District of New Hampshire’s sponsorship of several innovative civics programs for middle and high school students in my taped

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<sup>2</sup> *Id.* at 904.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Id.* at 905.

statement for last year’s conference. I will give yet another Shout Out to Chief Judge Landya McCafferty, for her work with a group called *Speak Up for Justice*, which endeavors to “bring the country together to voice support for the judiciary,” including convening widely attend virtual events.<sup>5</sup> Judges can, and should, support that effort, and to the extent that we are able, get involved with similar initiatives.

My second suggestion is that we look inward and focus on supporting one another during these challenging times—helping each other to *hold on* despite the difficulties—and continually reminding ourselves of the core values that guide us in our daily work. Apparently, Justice Kennedy once told a group of Russian judges that “only other judges can fully understand the loneliness of a judge confronted with the task of independently deciding a truly difficult case.”<sup>6</sup> Acknowledging that shared experience helps. And I do know that loneliness from my own service as a district judge in the District of Columbia. It is very stressful to have to decide a difficult case in the spotlight and under pressure. And especially for a single district judge, having to manage a high-profile, fast moving, consequential case involving a challenge to government action is enormously difficult. When you add to that having to endure baseless attacks on your intelligence and integrity—coming from people who are not so subtly trying to influence your decision making—it can sometimes take raw courage to remain steadfast in doing what the law requires.

For me, I have found sustaining strength in historical role models—judges throughout history who have faced similar challenges and moved through them with duty, honor, and a clarity of conscience. I am thinking about towering figures like Julius Waties Waring (SC), John M. Wisdom (LA), Elbert P. Tuttle (GA), John R. Brown (TX), Richard T. Rives (AL), and W. Arthur Garrity (MA), just to name just a few. Three district judges from the not-so-distant past have been especially

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<sup>5</sup> *Speak Up for Justice*, <https://speakupforjustice.law>.

<sup>6</sup> Breyer, *supra* note 1, at 904.

inspirational to me, and I offer you their stories as examples. These judges displayed the kind of courage that some of us might find the need to summon today.

Starting with the Civil Rights Era: Everyone is aware of the Supreme Court's unanimous opinion in *Brown v. Board of Education*, which declared that racial segregation in public schools was unconstitutional. But as some of you remember, in the wake of *Brown*, the promise of integration was met with fierce opposition across the American South. Many Southern elected officials vowed defiance, segregationists erupted in protests, and African Americans faced severe threats of violence for even attempting to bring civil rights lawsuits in federal court. In the midst of all the social turmoil on the ground, district judges were essential to pronouncing what the law required and thereby ensuring that the promise of *Brown* was actually and ultimately realized.

One of those judges was Judge Frank M. Johnson, who President Dwight D. Eisenhower appointed to the U.S. District Court for the Middle District of Alabama in 1955, one year after *Brown*. At the time of his appointment, the strong winds of the civil rights movement were catching sails across the south—and particularly in Alabama. Rosa Parks's arrest ignited the Montgomery Bus Boycott. And within three weeks of his first day on the job, Judge Johnson, who sat in Montgomery, was assigned to one of those cases that judges find thrilling at first—before the wave of nausea hits. In his first major ruling, Judge Johnson joined a three-judge panel in striking down Montgomery's bus-segregation law as violating the Fourteenth Amendment. And in subsequent cases, he continued to faithfully apply the principles of equal justice under law and the promise of the Fourteenth Amendment, leading to the integration of Alabama's universities and juries, and expanded access to court-appointed counsel for indigent defendants.

Now, as I am sure you can imagine, Judge Johnson's decisions were pretty unpopular at the time, and often placed a target on his back in the community in

which he lived and worked. But biographers say he was generally nonplussed about this—and it certainly did not impact his decision. He said, quite simply, that he was just doing his duty; “it is the obligation of every judge to see that justice is done within the framework of the law.”<sup>7</sup> So, when the late John Lewis reflected on Judge Johnson’s legacy, he noted that, “[i]n the face of social ostracism, countless threats to his life, two cross-burnings on his lawn, and the firebombing of his mother's house, Judge Johnson held fast to his principles and raised the Constitution as a lonely shield against his adversaries.”<sup>8</sup>

Judge J. Skelly Wright, who sat on the U.S. District Court for the Eastern District of Louisiana from 1949 to 1962, is the second judge I want to mention—he was another leading civil rights era judge. While Judge Johnson was ruling on the defiant acts of Alabama’s executive officials, Judge Wright had to contend with Louisiana’s *legislature*—their defiance of *Brown v. Board* took the form of new state laws aimed at evading the Supreme Court’s ruling. When cases were filed that challenged the constitutionality of those laws and were assigned to him, Judge Wright was undaunted. First, he held that Louisiana statutes that entrenched racial segregation in public schools could not be sustained as applied, and ordered the New Orleans school board to end the practice—he was the first judge in the Deep South to issue that kind of directive. Then, despite facing private violence and public insults, Judge Wright continued to issue integration orders—not just to public school officials, but to Louisiana universities, common carriers, voting officials, and more. His view of what the law required ultimately prevailed—and so did the rule of law. Indeed, I can honestly say that it was bravery and honor of judges like Skelly Wright and Frank Johnson—their steadfast commitment to the rule of law despite the death threats, social exile, and cross-burnings—that

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<sup>7</sup> Frank Johnson, Jr., *Finding Justice Within the Law*, Birmingham News, Aug. 15, 1993, at C1 (reprinting Johnson's address before the American Bar Association Section on Individual Rights).

<sup>8</sup> John Lewis, *Reflections on Judge Frank M. Johnson, Jr.*, 109 Yale L.J. 1253, 1256 (2000).

hastened the end of racial segregation in this country, and to that extent, are at least indirectly responsible for me being here speaking with you today.

Let me close by mentioning the courageous work of one more district judge, who served during another period of national strife. In the aftermath of the Watergate scandal, Judge John J. Sirica of the District Court for the District of Columbia was randomly assigned to preside over the trial of the five burglars who had been arrested at the DNC's headquarters. Imagine how Judge Sirica must have felt, sitting in his chambers, minding his own business, when this case came across his desk—one lone federal judge having to serve at the center of that political storm. He did not flinch. Judge Sirica demanded the truth—and it was in his courtroom that the truth about President Nixon and his administration's involvement in political espionage began to emerge. Judge Sirica followed the law and the facts where they led, ignoring the political consequences that I am sure he knew would befall the Presidency—and the political party that had appointed him to the bench. As he put it, “Despite efforts in our executive branch to distort the truth...the court system served to set the record straight.”<sup>9</sup>

So today, when I get discouraged about the news of attacks on judges and worry about the personal sacrifices and weighty responsibilities of the role, I think about those three courageous district judges, and others, who also served during times of great peril. Rather than bowing to the pressure, they stayed the course, using the authority that had been vested in them to do the right thing—and by that I mean, to rule independently in each case and in the manner that they believed the law required. And history now honors each of them for that noble service.

I will end there, with that note of what I hope is inspiration and encouragement. Other judges have faced challenges like the ones we face today,

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<sup>9</sup> Anthony J. Gaughan, *Watergate, Judge Sirica, and the Rule of Law*, 42 *McGeorge L. Rev.* 343, 345 (2016).

and have prevailed. I urge you to keep going—keep doing what is right—for the good of the country. And I do believe that history will vindicate your service as well. Thank you for hearing me out on this, and we can now turn to a discussion of happier things—my own upbringing and background as a child of the ‘70s, and my path to this important position of national service at this pivotal time.